

REGULAR MEETING  
BOROUGH COUNCIL  
BOROUGH OF RUMSON  
August 11, 2020

A regular meeting of the Borough Council of the Borough of Rumson was held (virtually) on Tuesday, August 11, 2020 at 4:30 p.m.

Pledge of Allegiance.

At this time, Mayor Hemphill asked everyone to remain standing for a moment of silence in memory of former Police Chief Robert T. “Bobby” Hoffman and former Borough Administrator and Municipal Clerk, Gary Sammon.

Thank you.

Moment of Silence

Our former Police Chief, Robert T. “Bobby” Hoffman, passed away peacefully on Saturday July 18th. He graduated from Rumson Fair Haven Regional High School and then joined the U.S. Marine Corp where he served our country from 1963 to 1967 during the Vietnam War. He earned an Associate's Degree in Criminal Justice from Brookdale Community College. He then went on to serve the Rumson Police Department for 31 years eventually becoming Police Chief in 1993 until his retirement in 1999. Bobby was a lifetime member of the Oceanic Fire Department.

Bobby enjoyed fishing and crabbing on the Navesink River. He enjoyed all sports, especially playing softball, basketball, tennis and was an avid NY Giants fan.

Bobby is survived by his beloved wife, Jane, of 54 years, his children, grandchildren and great grandchildren.

The Council and I wish to extend our sincere sympathies to the Hoffman Family.

Moment of Silence

Our former Borough Administrator and Municipal Clerk, Gary Sammon, passed away peacefully at his home, on Sunday, August 2<sup>nd</sup>, surrounded by his loving family.

Gary was a 4th generation resident of Rumson. He was born in Red Bank on July 7, 1943, attended Holy Cross Elementary School and graduated from Rumson-Fair Haven Regional High School in 1962. Gary then attended Monmouth College, becoming the first person in his family to graduate from college in 1967.

Gary began serving the town of Rumson in 1970 when he was hired as the Assistant Borough Administrator. He held that position for over 7 years. In 1977, until his retirement in 2004, Gary served as Borough Administrator, Municipal Clerk, Secretary to the Planning Board and Zoning Board and Registrar for Vital Statistics. Gary was also the unofficial Borough Historian on a number of topics related to Rumson during his lifetime.

Gary’s willingness to help and go the extra mile, made him very popular with many residents and co-workers. During his more than three decades of service, Gary’s impact on the town of Rumson was immeasurable. He will be sorely missed by all who knew and loved him and we send our deepest sympathies to his family.

Present: Mayor Hemphill, Council President Atwell, Councilmen Casazza, Conklin, Kingsbery, Rubin and Swikart.

Absent: None.

Thomas S. Rogers, Municipal Clerk/Administrator, was present.

Martin M. Barger, Borough Attorney, was present.

David Marks, Borough Engineer, was present.

Kendra Lelie, Borough Planner, was present.

Mayor Hemphill declared a quorum present and announced that the Notice Requirements of the Open Public Meetings Act have been met for this meeting by the posting and mailing of a notice at least 48 hours in advance thereof to the *Asbury Park Press* and the *Two River Times*.

On motion by Councilman Rubin, seconded by Council President Atwell, the minutes of the previous meeting were approved as written, copies having been forwarded to all Council members. All in favor.

#### **COMMUNICATIONS:**

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#### **LETTER FROM MUNICIPAL CLERK/BOROUGH ADMINISTRATOR ADVISING OF THE COMPLETION OF THE GREEN ACRES SCOPING PUBLIC HEARING ON JULY 16, 2020 AT 7:00 P.M. (HELD VIRTUALLY).**

The Municipal Clerk/Administrator read a letter to the Mayor and Council wherein he advised them of the completion of the Green Acres Scoping Hearing. This hearing was held on July 16, 2020 at 7:00 p.m. with New Jersey Natural Gas and New Jersey American Water.

Councilman Rubin made a motion to accept the communication. Council President Atwell seconded the motion and this communication was ordered received. All in favor.

#### **LETTER RECEIVED FROM RYAN LAYDEN, ENVIRONMENTAL SCIENTIST AT ENVIROTACTICS, INC. ADVISING OF APPLICATION SUBMISSION TO NJDEP FOR A FRESHWATER WETLANDS SPECIAL ACTIVITY TRANSITION AREA WAIVER, LINE VERIFICATION LETTER OF INTERPRETATION, AND FLOOD HAZARD AREA GENERAL PERMIT 6. PROPERTY IS LOCATED AT BLOCK 124, LOT 17 (172 BINGHAM AVENUE).**

The Municipal Clerk/Administrator received a letter from Ryan Layden, Environmental Scientist at Envirotactics, Inc. advising of the submission of an application to the NJDEP for a Freshwater Wetlands Special Activity Transition Area Waiver, Line Verification Letter of Interpretation, and Flood Hazard Area General Permit 6. Copies of required documentation and maps were also included in the package. This property is located at Block 124, Lot 17 (172 Bingham Avenue).

Councilman Rubin made a motion to accept the communication. Council President Atwell seconded the motion and this communication was ordered received. All in favor.

#### **LETTER OF RESIGNATION FROM FULL TIME POLICE DISPATCHER/CLASS II SPECIAL LAW ENFORCEMENT OFFICER TIMOTHY FUNK EFFECTIVE AUGUST 6, 2020.**

The Municipal Clerk/Administrator received a letter from Full Time Police Dispatcher/Class II Special Law Enforcement Officer Timothy Funk advising of his resignation effective August 6, 2020.

Councilman Rubin thanked Mr. Funk for his service to the Borough and made a motion to accept the communication with regret. Council President Atwell seconded the motion and this communication was ordered received. All in favor.

#### **COMMITTEE REPORTS:**

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Councilman Conklin shared that he, Municipal Clerk/Administrator Tom Rogers and Chief Financial Officer Helen Graves were recently present for a ZOOM meeting with the Municipal Auditor Bob Allison to discuss the Borough's 2019 audit. The Councilman stated that there was an added subsequent events footnote regarding the COVID-19 pandemic which was understandable under the current circumstances.

They were informed of the fact that the town has the opportunity to borrow up to 3.5% of its total value. The town currently has only \$11 million in debt which gives the Borough financial flexibility.

Council Conklin also asked Mr. Allison about his compliance and substantive testing in order to obtain information in regard to areas that may need work or attention and Mr. Allison advised there were no substantial or material findings discovered during this process.

Lastly, Councilman Conklin stated that Mr. Allison highlighted how efficient Mr. Rogers and Ms. Graves had been during the audit and had further positive comments related to working with them.

The Mayor thanked Councilman Conklin for his report.

#### **UNFINISHED BUSINESS:**

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The Municipal Clerk stated that an Ordinance entitled:

**ORDINANCE #20-004 G TO AMEND THE CODE OF THE BOROUGH OF RUMSON  
BY AMENDING CHAPTER II ADMINISTRATION, CHAPTER IV GENERAL  
LICENSING, CHAPTER VII TRAFFIC, AND CHAPTER XIII  
STREETS AND SANITATION ORDINANCES**

was scheduled for public hearing at this time. He stated that the Ordinance had been posted and published and the Affidavit of Publication is on file.

On motion by Councilman Rubin, seconded by Council President Atwell, the public were given an opportunity to be heard on this Ordinance in final reading. All in favor.

Mayor Hemphill afforded the public an opportunity to speak at this time.

The Municipal Clerk/Administrator gave instructions to the public for commenting on the virtual meeting.

No one responded.

Councilman Rubin made a motion to close the public hearing for this Ordinance.

Council President Atwell then seconded the motion to close the public hearing on the Ordinance. All in favor.

Councilman Rubin then moved the adoption of this Ordinance in final reading. Motion seconded by Council President Atwell and carried on the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Abstain: None.

Absent: None.

**NEW BUSINESS:**

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**INTRODUCTION OF ORDINANCE #20-005 G ADDING CHAPTER 23 “AFFIRMATIVE MARKETING OF AFFORDABLE HOUSING UNITS” AND “AFFORDABLE HOUSING DEVELOPMENT” AND “DEVELOPMENT FEES” OF THE BOROUGH OF RUMSON TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS IN FIRST READING. PUBLIC HEARING SCHEDULED FOR TUESDAY, SEPTEMBER 15, 2020 AT 4:30 P.M.**

The Municipal Clerk/Administrator read the following Ordinance by title only in first reading:

**20-005 G**

**ADDITION OF AN ORDINANCE KNOWN AS CHAPTER 23 FOR THE “AFFORDABLE HOUSING DEVELOPMENT” OF THE BOROUGH OF RUMSON TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS AND TO ADOPT A REVISED DEVELOPMENT FEE ORDINANCE TO PROVIDE FOR THE COLLECTION OF DEVELOPMENT FEES IN SUPPORT OF AFFORDABLE HOUSING AS PERMITTED BY THE NEW JERSEY FAIR HOUSING ACT.**

BE IT ORDAINED by the Borough Council of Rumson, Monmouth County, New Jersey, that the Code of the Borough of Rumson is hereby amended to include provisions addressing Rumson’s constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

FURTHER BE IT ORDAINED by the Mayor and Council of the Borough of Rumson, Monmouth County, New Jersey, that the Code of the Borough of Rumson is hereby amended to include the following provisions regulating the collection and disposition of mandatory development fees to be used in connection with the Borough's affordable housing programs, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

Pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that were under the jurisdiction of COAH and that are now before a court of competent jurisdiction and have a Court-approved Spending Plan may retain fees collected from non-residential development;

**SECTION 1.**

That Chapter XXIII, Affordable Housing Development, shall be added as follows:

## CHAPTER XXIII AFFORDABLE HOUSING DEVELOPMENT

### § 23-1 Monitoring and Reporting Requirements

The Borough of Rumson shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan:

1. Beginning on May 17, 2020, and on every anniversary of that date through July 1, 2025, the Borough agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCOA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
2. Beginning on January 14, 2021, and on every anniversary of that date through July 27, 2025, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
3. By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.
4. By March 1, 2020, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including its family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low-income housing obligations.

### § 23-2 Definitions

The following terms when used in this Ordinance shall have the meanings given in this Section:

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity designated by the Borough to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

“Affordability average” means the average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means, a sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable housing development” means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

"Alternative living arrangement" means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

“Assisted living residence” means a facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

“Inclusionary development” means a development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the regional median household income by household size.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary and the transfer of ownership by court order.

“Random selection process” means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the regional median household income by household size.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

### § 23-3 Applicability and Mandatory Set-Aside

1. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Rumson pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.

2. Moreover, this Ordinance shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units and including any developments funded with low-income housing tax credits.

3. If the Borough permits the construction of multi-family or single-family attached residential development that is “approvable” and “developable,” as defined at N.J.A.C. 5:93-1.3, at a gross residential density of 6 units to the acre or more, the Borough shall require that an appropriate percentage of the residential units be set aside for low and moderate income households. This requirement shall apply beginning on January 14, 2020. Where applicable within the Borough, this requirement shall apply to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project and including the conversion of a non-residential structure to a residential development, which development consists of five (5) or more new residential units, whether permitted by a zoning amendment, a variance granted by the Borough’s Land Use Board, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation.

4. For any such development for which the Borough’s land use ordinances (e.g. zoning or an adopted Redevelopment Plan) already permitted residential development as of January 14, 2020, this requirement shall only apply if the Borough permits an increase in approvable and developable gross residential density to at least twice the permitted approvable and developable gross residential density as of the effective date of this Agreement. Nothing in this paragraph precludes the Borough from imposing an affordable housing set aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable law.

5. For inclusionary projects in which the low and moderate units are to be offered for sale, the appropriate set-aside percentage is 20 percent; for projects in which the low- and moderate-income units are to be offered for rent, the appropriate set-aside percentage is 15 percent.



6. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project. This requirement does not apply to any sites or specific zones otherwise identified in the Settlement Agreement or Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein.

#### § 23-4 Alternative Living Arrangements

1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:

a. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;

b. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

2. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.

3. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

#### § 23-5 Phasing Schedule for Inclusionary Zoning

In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

#### § 23-6 New Construction

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

a. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13 percent of all restricted rental units shall be very low-income units (affordable to a household earning 30 percent or less of regional median income by household size) across bedroom distribution. The very low-income units shall be counted as part of the required number of low-income units within the development.

b. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or low-income units.

c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

- 1) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
- 2) At least 30 percent of all low- and moderate-income units shall be two-bedroom units;
- 3) At least 20 percent of all low- and moderate-income units shall be three-bedroom units; and
- 4) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.

d. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

## 2. Accessibility Requirements:

a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:

b. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

- 1) An adaptable toilet and bathing facility on the first floor; and
- 2) An adaptable kitchen on the first floor; and
- 3) An interior accessible route of travel on the first floor; and
- 4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
- 5) If not all of the foregoing requirements in b.1) through b.4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- 6) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, *et seq.*) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Rumson has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

b) To this end, the builder of restricted units shall deposit funds within the Borough of Rumson's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

c) The funds deposited under paragraph 6)b) above shall be used by the Borough of Rumson for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

d) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Rumson for the conversion of adaptable to accessible entrances.

e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

(7) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

### 3. Design:

a. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

b. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

### 4. Maximum Rents and Sales Prices:

a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures as approved by the Court.

1) Regional income limits shall be established for the region that the Township is located within based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

2) The income limits are the result of applying the percentages set forth in paragraph (1) above to HUD's determination of median income for the fiscal year 2017, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

3) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)(3) shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (1) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

4) In establishing sale prices and rents of affordable housing units, the Township's administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established pursuant to the process defined above:

(a) The resale prices of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to the above methodology. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

(b) The rent levels of very-low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.

c. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.

d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:

- 1) A studio shall be affordable to a one-person household;
- 2) A one-bedroom unit shall be affordable to a one- and one-half person household;
- 3) A two-bedroom unit shall be affordable to a three-person household;
- 4) A three-bedroom unit shall be affordable to a four and one-half person household; and
- 5) A four-bedroom unit shall be affordable to a six-person household.

f. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:

- 1) A studio shall be affordable to a one-person household;
- 2) A one-bedroom unit shall be affordable to a one- and one-half person household; and

3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

i. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.

j. The rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

#### § 23-7 Utilities

1. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.

2. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for the Section 8 program.

#### § 23-8 Occupancy Standards

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

1. Provide an occupant for each bedroom;
2. Provide children of different sexes with separate bedrooms;
3. Provide separate bedrooms for parents and children; and
4. Prevent more than two persons from occupying a single bedroom.

#### § 23-9 Control Periods for Restricted Ownership Units and Enforcement Mechanisms

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Rumson takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

5. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

#### § 23-10 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.

2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.

3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.

4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 13.

#### § 23-11 Buyer Income Eligibility

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.

3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

5. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough Council, and subject to Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.

6. A certified household that purchases a restricted ownership unit must occupy it as a certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of a hardship, to lease the restricted unit to another certified household for a period not to exceed one year. Violations of this provision shall be subject to the applicable enforcement provisions of Section 20 of this Ordinance.

#### § 23-12 Limitations on Indebtedness Secured by Ownership Unit; Subordination

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

2. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

#### § 23-13 Capital Improvements to Ownership Units

1. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

#### § 23-14 Control Periods for Restricted Rental Units

1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Rumson takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
2. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Rumson. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
3. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:
  - a. Sublease or assignment of the lease of the unit;
  - b. Sale or other voluntary transfer of the ownership of the unit; or
  3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

#### § 23-15 Rent Restrictions for Rental Units; Leases

1. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
3. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
4. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

#### § 23-16 Tenant Income Eligibility

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
  - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
  - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
  - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent



(40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

- a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
- b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
- c. The household is currently in substandard or overcrowded living conditions;
- d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
- e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

#### § 23-17 Municipal Housing Liaison

1. The Borough of Rumson shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Borough's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the Borough's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). Rumson shall adopt an Ordinance creating the position of Municipal Housing Liaison and a Resolution appointing the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.

2. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Rumson, including the following responsibilities which may not be contracted out to the Administrative Agent:

- a. Serving as Rumson's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
- b. Monitoring the status of all restricted units in Rumson's Fair Share Plan;
- c. Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;
- d. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
- e. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

3. Subject to the approval of the Court, the Borough of Rumson shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Borough in accordance with UHAC and this Ordinance. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the

Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

#### § 23-18 Administrative Agent

An Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. *The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.* The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

1. Affirmative Marketing:

a. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Rumson and the provisions of N.J.A.C. 5:80-26.15; and

b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

2. Household Certification:

a. Soliciting, scheduling, conducting and following up on interviews with interested households;

b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;

c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;

e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;

f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Rumson when referring households for certification to affordable units; and

g. Notifying the following entities of the availability of affordable housing units in the Borough of Rumson: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, OCEAN Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch and Trenton branches of the NAACP, and the Supportive Housing Association.

3. Affordability Controls:

a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Monmouth County Register of Deeds or Monmouth County Clerk's office after the termination of the affordability controls for each restricted unit;

d. Communicating with lenders regarding foreclosures; and

e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

4. Resales and Rerentals:

a. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and

b. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.

5. Processing Requests from Unit Owners:

a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;

b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;

c. Notifying the municipality of an owner's intent to sell a restricted unit; and

d. Making determinations on requests by owners of restricted units for hardship waivers.

6. Enforcement:

a. Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;

b. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

c. Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;

d. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;

e. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and

f. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.

7. Additional Responsibilities:

a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.

c. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

#### § 23-19 Affirmative Marketing Requirements

1. The Borough of Rumson shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.

3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprised of Monmouth, Mercer and Ocean Counties.

4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and rerentals. The Administrative Agent designated by the Borough of Rumson shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

5. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

7. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

9. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Rumson, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network STEPS, OCEAN Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch and Trenton branches of the NAACP, and the Supportive Housing Association.

10. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

## § 23-20 Enforcement of Affordable Housing Regulations

1. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

a. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

1) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;

2) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Rumson Affordable Housing Trust Fund of the gross amount of rent illegally collected;

3) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.

b. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.

1) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

2) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a

claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

3) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

4) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

5) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

6) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

#### § 23-21 Appeals

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

#### § 23-22 Development Fee Purpose

This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

#### § 23-23 Basic Requirements

A. This Ordinance shall not be effective until approved by the Court.

B. The Borough of Rumson shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan).

#### § 23-24 Definitions

The following terms, as used in this Ordinance, shall have the following meanings:

“Affordable housing development” means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

“COAH” or the “Council” means the New Jersey Council on Affordable Housing established under the Fair Housing Act.

“Development fee” means money paid by a developer for the improvement of property as authorized by Holmdel Builder’s Association v. Holmdel Borough, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, *et seq.*, and regulated by applicable COAH Rules.

“Developer” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

“Equalized assessed value” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).

“Green building strategies” means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

## § 23-25 Residential Development Fees

### A. Imposition of Fees

1) Within the Borough of Rumson, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.

2) When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of six percent (6%) percent of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

### B. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments

1) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Borough of Rumson, shall be exempt from the payment of development fees.

2) Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance and any preceding Ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the

issuance of a Zoning Permit and/or Construction Permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.

3) Any repair, reconstruction or improvement of a structure, the cost of which is less than 50% of the market value of the structure before the improvement or repair is started. For purpose of this section, "market value" shall mean the equalized assessed value of the existing improvement as established by the Borough Tax Assessor. The cost of the repair, reconstruction or improvements shall be determined by an itemized construction cost estimate prepared and submitted to the Construction Official. The estimate shall be signed and sealed by an architect or professional engineer licensed by the State of New Jersey, or where no such professionals are retained, signed by the contractor or the homeowner. Where prepared by the homeowner or contractor, the Borough Engineer may review such estimates for accuracy. "Substantial improvement" is considered to commence when the first alteration of any wall, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either:

(a) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or

(b) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.

4) Structural alterations that do not increase gross floor area of a building or structure or increase the equalized assessed value of a property shall be exempted from paying a development fee.

5) Nonprofit organizations constructing residential projects which have received tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the Municipal Clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.

6) Federal, state, county and local governments shall be exempted from paying a development fee.

7) Homes replaced as a result of a natural disaster, fire or flood shall be exempt from the payment of a development fee. (This exemption applies only for the owner of record at the time of the fire, flood, or natural disaster.)

## § 23-26 Non-Residential Development Fees

### A. Imposition of Fees

1) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

2) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to two and one-



half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.

**B. Eligible Exactions, Ineligible Exactions and Exemptions for Non-residential Development**

1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to a two and a half percent (2.5%) development fee, unless otherwise exempted below.

2) The two and a half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.

3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.

4) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.

5) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Rumson as a lien against the real property of the owner.

6) Federal, state, county and local governments constructing nonresidential housing shall be exempted from paying a development fee.

**§ 23-27 Collection Procedures**

A. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit.

B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

C. The Construction Official responsible for the issuance of a Construction Permit shall notify the Borough Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.

D. Within 21 days of receipt of such notification, the Borough Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.

E. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.

F. Within 10 business days of a request for the scheduling of a final inspection, the Borough Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

G. Should the Borough of Rumson fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).

H. Except as provided in Section 5.A.3) hereinabove, fifty percent (50%) of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.

#### § 23-28 Appeal of Development Fees

1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough of Rumson. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1, *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough of Rumson. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1, *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

#### § 23-29 Affordable Housing Trust Fund

A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Rumson for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

- 1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Borough of Rumson;
- 2) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
- 3) Rental income from municipally operated units;
- 4) Repayments from affordable housing program loans;
- 5) Recapture funds;
- 6) Proceeds from the sale of affordable units; and
- 7) Any other funds collected in connection with Rumson's affordable housing program.

C. In the event of a failure by the Borough of Rumson to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Rumson, or, if not practicable, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund or impose such other remedies as may be reasonable and appropriate to the circumstances.

D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

#### § 23-30 Use of Funds

A. The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Borough of Rumson's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.

B. Funds shall not be expended to reimburse the Borough of Rumson for past housing activities.

C. At least 30 percent of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to very low-income households earning 30 percent or less of the regional median household income by household size for Housing Region 2, in which Rumson is located.

1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.

2) Affordability assistance to households earning 30 percent or less of the regional median household income by household size may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.

3) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Borough of Rumson, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

D. The Borough of Rumson may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.

E. No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.

1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20 percent of collected development fees that may be expended on administration.

2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the Court's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

#### § 23-31 Monitoring

The Borough of Rumson shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the

Borough), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Rumson's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

#### § 23-32 Ongoing Collection of Fees

A. The ability for the Borough of Rumson to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Borough of Rumson has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

B. If the Borough of Rumson fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).

C. The Borough of Rumson shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Borough of Rumson retroactively impose a development fee on such a development. The Borough of Rumson also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

#### SECTION 2.

If any section, subsection, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

#### SECTION 3.

This ordinance shall take effect upon final passage and publication according to law.

Councilman Rubin moved the adoption of this Ordinance in first reading. Motion seconded by Council President Atwell and carried on the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Abstain: None.

Absent: None.

Mayor Hemphill stated that this Ordinance would be published and posted and come up for final consideration and public hearing at the Tuesday, September 15, 2020 meeting of the Borough Council at 4:30 p.m.

**INTRODUCTION OF ORDINANCE #20-006 G REPEALING AND REPLACING CHAPTER 2-23 OF THE BOROUGH OF RUMSON CODE TO PROVIDE FOR A MUNICIPAL LIAISON AND REPLACE IT WITH THE FORMATION OF THE MUNICIPAL**

**AFFORDABLE HOUSING COMMITTEE FOR THE SUPPORT OF AFFORDABLE HOUSING AS PERMITTED BY THE NEW JERSEY FAIR HOUSING ACT IN FIRST READING. PUBLIC HEARING SCHEDULED FOR TUESDAY, SEPTEMBER 15, 2020 AT 4:30 P.M.**

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The Municipal Clerk/Administrator read the following Ordinance by title only in first reading:

**20-006 G**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF RUMSON BY AMENDING THE CHAPTER II ADMINISTRATION ORDINANCE**

BE IT ORDAINED by the Mayor and Council of the Borough of Rumson, in the County of Monmouth and State of New Jersey that Chapter II (Administration) of the General Ordinances of the Borough of Rumson is hereby amended or supplemented as follows:

**PURPOSE**

The purpose of this Ordinance is to repeal and replace Chapter II (Administration) Section § 2-23 to establish the Affordable Housing Committee.

*Chapter II (Administration) of the General Ordinances of the Borough of Rumson is hereby amended or supplemented as follows (new text is double underlined, text to be deleted is struck through and notations to the reader and changes in subparagraph designations either with or without changes to content are italicized):*

**SECTION 1.**

That Chapter II, Administration, shall be amended to as follows:

**CHAPTER II ADMINISTRATION**

§ 2-1 CHAPTER TITLE through § 2-22 CRIMINAL HISTORY BACKGROUND CHECKS FOR BOROUGH EMPLOYEES AND EMERGENCY SERVICE VOLUNTEERS.

No Changes.

§ 2-23 MUNICIPAL HOUSING LIAISON.

§ 2-23.1 Definitions.

As used in this section, the following terms shall have the meanings indicated:

**ADMINISTRATIVE AGENT**

Shall mean the entity responsible for administering the affordability controls of some or all units in the Affordable Housing Program for the Borough of Rumson to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

**MUNICIPAL HOUSING LIAISON**

Shall mean the employee charged by the Governing Body with the responsibility for oversight and administration of the Affordable Housing Program for the Borough of Rumson.

§ 2-23.2 Establishment of Municipal Housing Liaison Position and Compensation; Powers and Duties.

a. Establishment of Position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for the Borough of Rumson.

b. Subject to approval of the Council on Affordable Housing (COAH) the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full-time or part-time municipal employee.

c. The Municipal Housing Liaison shall be responsible for oversight and administration of the Affordable Housing Program for the Borough of Rumson, including the following responsibilities which may not be contracted out, exclusive of item 6, which may be contracted out:

1. Serving as the Borough of Rumson's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
2. Monitoring the status of all restricted units in the Borough of Rumson's Fair Share Plan;
3. Compiling, verifying, and submitting annual reports as required by COAH;
4. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
5. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH; and
6. Serving as the Administrative Agent for some or all of the restricted units in the Borough of Rumson, which has been contracted out and is, therefore, not applicable.

d. Subject to approval by COAH, the Borough of Rumson may contract with or authorize a consultant, authority, government or any agency charged by the Governing Body, which entity shall have the responsibility of administering the Affordable Housing Program of the Borough of Rumson, except for those responsibilities which may not be contracted out pursuant to Subsection c above. If the Borough of Rumson contracts with another entity to administer all or any part of the Affordable Housing Program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.

e. Compensation. Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.

#### § 2-23.3 Severability.

If any section, subsection, paragraph, sentence or other part of this section is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this section, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this section directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this section shall remain in full force and effect.

#### § 2-23.4 Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances which are inconsistent with the provisions of this section are hereby repealed, but only to the extent of such inconsistencies.

### § 2-23 AFFORDABLE HOUSING COMMITTEE.

#### § 2-23.1 Established.

There is hereby established in and for the Borough of Rumson an Affordable Housing Committee, which shall be advisory and instructional in nature to assist the Borough in the development and implementation of an Affordable Housing Plan.

#### § 2-23.2 Members; Term.

The Affordable Housing Committee shall consist of the Mayor or his alternate, two Councilmembers and two Planning Board Members all of whom will be appointed by the Mayor. It shall also include three members of the public, whom are not members of other Borough

Committees or Commissions. These three regular public members shall be appointed by the Mayor with the advice and consent of the Borough Council. All committee members shall be appointed annually to a one year term. Borough Professionals shall also be included in all Committee Meetings to help guide discussion and assist in plan development. These Borough Professionals shall including persons holding the positions of Administrator, Borough Affordable Housing Liaison, Borough Planner, Borough Engineer, Planning Board Secretary, the Borough's Administrative Housing Agent and others as needed by the Committee to assist the Committee.

§ 2-23.3 Affordable Housing Committee Responsibilities.

The Affordable Housing Committee shall have the responsibility to assist in the development of a Borough wide Affordable Housing Plan to help facilitate the development of affordable housing in the Borough of Rumson. The Committee will give advice on affordable housing development as part of the adopted Housing Plan element of the Master Plan and on applications for development. The Committee will also develop and implement educational materials to help promote affordable housing in the Borough.

§ 2-24 MUNICIPAL ALLIANCE TO PREVENT ALCOHOL AND DRUG ABUSE through § 2-26 BOROUGH ENGINEER.

No Changes.

SECTION 2.

If any section, subsection, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3.

This ordinance shall take effect upon final passage and publication according to law.

Councilman Rubin moved the adoption of this Ordinance in first reading. Motion seconded by Council President Atwell and carried on the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Abstain: None.

Absent: None.

Mayor Hemphill stated that this Ordinance would be published and posted and come up for final consideration and public hearing at the Tuesday, September 15, 2020 meeting of the Borough Council at 4:30 p.m.

**RESOLUTION 2020-0811-103 REFUNDING RAFFLE LICENSE FEE TO OCEANIC FREE LIBRARY.**

**2020-0811-103**

Councilman Rubin offered the following resolution and moved its adoption:

**RESOLUTION REFUNDING RAFFLE LICENSE FEE  
TO OCEANIC FREE LIBRARY**



WHEREAS, Oceanic Free Library, paid a fee of \$20 to the Borough of Rumson and a \$20 fee to LGCCC for Raffle License #1174; and

WHEREAS, the \$20 fee payable to LGCCC was forwarded to the State along with the application; and

WHEREAS, the LGCCC refunded the \$20 fee because the raffle was cancelled due to COVID 19; and

WHEREAS, Oceanic Free Library, by way of a signed Borough of Rumson Voucher, has requested a refund of the \$20 fee paid to the Borough of Rumson for Raffle License #1174;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Rumson that the \$20 fee for Raffle License #1174 be refunded to Oceanic Free Library, 109 Avenue of Two Rivers, Rumson, NJ 07760 and

BE IT FURTHER RESOLVED that the appropriate Borough officials are hereby authorized to take action consistent with this resolution.

Seconded by Council President Atwell and carried upon the following roll call vote:

In the affirmative: Atwell, Casazza, Rubin and Swikart.

In the negative: None.

Absent: None.

Abstain: Conklin and Kingsbery.

**RESOLUTION 2020-0811-104 APPOINTING CROSSING GUARDS FOR THE 2020-2021 RUMSON BOROUGH SCHOOL YEAR.**

**2020-0811-104**

Councilman Rubin offered the following resolution and moved its adoption:

**RESOLUTION**

BE IT RESOLVED that the following citizens be appointed as Regular School Crossing Guards and Substitute School Crossing Guards for the 2020-2021 School Year:

**REGULAR CROSSING GUARDS**

Mary Bader  
Jenene Calabretta  
Regina Davidson  
Margaret Guinan  
Philip M. Malecki  
Kristen McConnell  
Robert Micieli  
Patricia Mieth  
Jean Noonan  
Lorraine Oakes  
Florence Preston  
Dan Seslar  
Jeanne Wadle  
Leolin T. West

SUBSTITUTES

Baskyany Malecki  
James Sanford  
Judy Tober  
Maria Wyckoff

BE IT FURTHER RESOLVED that Regular and Substitute School Crossing Guards shall be paid at a rate of \$31.00 per diem for days worked; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be forwarded to the Chief Financial Officer and Payroll Clerk.

Resolution seconded by Council President Atwell and carried on the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Absent: None.

**RESOLUTION 2020-0811-105 APPOINTING TROY MALONE AS CLASS II SPECIAL LAW ENFORCEMENT OFFICER EFFECTIVE AUGUST 1, 2020.**

**2020-0811-105**

Councilman Rubin offered the following resolution and moved its adoption:

RESOLUTION

WHEREAS, the Borough of Rumson through its Police Department has the need for a full-time Police Dispatcher/Class II Special Law Enforcement Officer; and

WHEREAS, Police Chief Scott Paterson and the Police Committee have recommended that Troy Malone, full-time Police Dispatcher/Class I Special Law Enforcement Officer, be appointed as a full-time Police Dispatcher/Class II Special Law Enforcement Officer; and

WHEREAS, the Police Chief and Police Committee have recommended that Mr. Malone attend the Special Law Enforcement Officer Class II Course in August 2020;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rumson that Troy Malone be appointed as a full-time Police Dispatcher/Class II Special Law Enforcement Officer at an annual salary of \$31,200.00 effective August 1, 2020; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the Chief Financial Officer and the Payroll Clerk.

Resolution seconded by Council President Atwell and carried on the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Absent: None.

**RESOLUTION 2020-0811-106 SUPPORTING THE STATE HOUSE COMMISSION  
PRE-APPLICATION TO THE NJDEP GREEN ACRES PROGRAM FOR THE  
SHREWSBURY RIVER RUMSON TO SEA BRIGHT WATER MAIN CROSSING  
PROJECT.**

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**2020-0811-106**

Councilman Rubin offered the following resolution and moved its adoption:

**RESOLUTION SUPPORTING THE STATE HOUSE COMMISSION  
PRE-APPLICATION TO THE NJDEP GREEN ACRES PROGRAM FOR  
THE SHREWSBURY RIVER – RUMSON TO SEA BRIGHT  
WATER MAIN CROSSING PROJECT**

WHEREAS, Block 143, Lot 2 is part of the Old Rumson Road Pocket Park located in the Borough of Rumson in Monmouth County, which is encumbered with restrictions against disposal or diversion from recreation and conservation uses by the New Jersey Department of Environmental Protection's (NJDEP's) Green Acres Program; and

WHEREAS, in conjunction with the proposed Shrewsbury River – Rumson to Sea Bright Water Main Crossing Project, it is necessary to remove the Green Acres restrictions from a 0.005 acre portion of Old Rumson Road Pocket Park. The project served to update damaged and aging infrastructure and provide reliable water service. The proposal to the NJDEP Green Acres Program for the proposed major diversion of one (1) Green Acres encumbered lands owned by the Borough of Rumson is described below:

- (1) Within Block 143, Lot 2, located at Old Rumson Road Pocket Park, the drinking water main was installed using horizontal directional drilling (HDD) and was buried at a minimum depth of 20 feet below the mudline of the Shrewsbury River. The water main was installed using trenchless HDD technology approximately 40 feet beneath the ground surface within a 2-foot wide easement approximately 107 feet in length, for a total diversion of 0.005 acres. No surface changes to Old Rumson Road Pocket Park have resulted from construction activities. The completed work requires an after-the-fact removal of Green Acres restrictions from a 0.005 acre portion of Old Rumson Road Pocket Park; and

WHEREAS, the removal of Green Acres restrictions from parkland requires the approval of the Commissioner of the Department of Environmental Protection and the State House Commission pursuant to N.J.A.C. 7:36-26; and

WHEREAS, the Borough of Rumson wishes to apply for approval for the after-the-fact parkland diversion involving the installation of a new drinking water main at Old Rumson Road Pocket Park as a major diversion of parkland under N.J.A.C. 7:36-26; and

WHEREAS, as required by N.J.A.C. 7:36-26.8, the Borough of Rumson held a scoping hearing on July 16, 2020 to solicit public comment on the diversion of parkland from Old Rumson Road Pocket Park in connection with the Shrewsbury River – Rumson to Sea Bright Water Main Crossing Project, which involved the installation of a new drinking water transmission main;

WHEREAS, the next step in the application process for approval of a major disposal or diversion of parkland is the filing of a pre-application under N.J.A.C. 7:36-26.9; and

WHEREAS, in accordance with N.J.A.C. 7:36-26.9(d)11, it is necessary for the Borough of Rumson to submit as part of the pre-application a Resolution endorsing the application to divert parkland;

NOW THEREFORE, BE IT RESOLVED by the Borough of Rumson, in the County of Monmouth, State of New Jersey as follows:

1. The Borough of Rumson endorses the filing of a pre-application for the for the proposed parkland diversions involving the installation of a new drinking water main at Old Rumson Road Pocket Park pursuant to N.J.A.C. 7:36-26;
2. The Borough of Rumson hereby finds that the installation of the drinking water transmission main at Old Rumson Road Pocket Park would meet the minimum substantive criteria at N.J.A.C. 7:36-26.1(d) by updating damaged and aging infrastructure, improving system reliability, and by providing monetary compensation for the proposed diversion area and disturbances to parkland acceptable to NJDEP; and
3. The Borough of Rumson acknowledges that in order to obtain the approval for the proposed parkland diversion involving the installation of a new drinking water main at Old Rumson Road Pocket Park, all substantive and procedural requirements of N.J.A.C. 7:36-26 must be met, including compensation requirements at N.J.A.C. 7:36-26.10.

Resolution seconded by Council President Atwell and carried on the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Absent: None.

**RESOLUTION 2020-0811-107 SUPPORTING THE STATE HOUSE COMMISSION  
PRE-APPLICATION TO THE NJDEP GREEN ACRES PROGRAM FOR THE NJ RISE  
SEA BRIGHT REINFORCEMENT NATURAL GAS MAIN PROJECT.**

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**2020-0811-107**

Councilman Rubin offered the following resolution and moved its adoption:

**RESOLUTION SUPPORTING THE STATE HOUSE COMMISSION  
PRE-APPLICATION TO THE NJDEP GREEN ACRES PROGRAM FOR  
THE NJ RISE SEA BRIGHT REINFORCEMENT NATURAL GAS MAIN PROJECT**

WHEREAS, Block 143, Lot 2 is part of the Old Rumson Road Pocket Park located in the Borough of Rumson in Monmouth County, which is encumbered with restrictions against disposal or diversion from recreation and conservation uses by the New Jersey Department of Environmental Protection's (NJDEP's) Green Acres Program; and

WHEREAS, in conjunction with the completed NJ RISE Sea Bright Reinforcement Project, it is necessary to remove the Green Acres restrictions from a 0.005 acre portion of Old Rumson Road Pocket Park. The project served to provide a secondary natural gas feed between Rumson and Sea Bright to improve system reliability and mitigate potential curtailments from future storm events. The proposal to the NJDEP Green Acres Program for the proposed major diversion of one (1) Green Acres encumbered lands owned by the Borough of Rumson is described below:

- (2) Within Block 143, Lot 2, located at Old Rumson Road Pocket Park, the natural gas main was installed using horizontal directional drilling (HDD) and was buried at a minimum depth of 30 feet below the mudline of the Shrewsbury River. The gas main was installed using trenchless HDD technology approximately 40 feet beneath the ground surface within a 2-foot wide easement approximately 107 feet in length, for a total diversion of 0.005 acres. No surface changes to Old Rumson Road Pocket Park have resulted from construction activities. The completed work requires an after-the-fact removal of Green Acres restrictions from a 0.005 acre portion of Old Rumson Road Pocket Park; and

WHEREAS, the removal of Green Acres restrictions from parkland requires the approval of the Commissioner of the Department of Environmental Protection and the State House Commission pursuant to N.J.A.C. 7:36-26; and

WHEREAS, the Borough of Rumson wishes to apply for approval for the after-the-fact parkland diversion involving the installation of a new natural gas main at Old Rumson Road Pocket Park as a major diversion of parkland under N.J.A.C. 7:36-26; and

WHEREAS, as required by N.J.A.C. 7:36-26.8, the Borough of Rumson held a scoping hearing on July 16, 2020 to solicit public comment on the diversion of parkland from Old Rumson Road Pocket Park in connection with the NJ RISE Sea bright Reinforcement Project, which involved the installation of a new natural gas main;

WHEREAS, the next step in the application process for approval of a major disposal or diversion of parkland is the filing of a pre-application under N.J.A.C. 7:36-26.9; and

WHEREAS, in accordance with N.J.A.C. 7:36-26.9(d)11, it is necessary for the Borough of Rumson to submit as part of the pre-application a Resolution endorsing the application to divert parkland;

NOW THEREFORE, BE IT RESOLVED by the Borough of Rumson, in the County of Monmouth, State of New Jersey as follows:

4. The Borough of Rumson endorses the filing of a pre-application for the for the proposed parkland diversions involving the installation of a new natural gas main at Old Rumson Road Pocket Park pursuant to N.J.A.C. 7:36-26;
5. The Borough of Rumson hereby finds that the installation of the natural gas main at Old Rumson Road Pocket Park would meet the minimum substantive criteria at N.J.A.C. 7:36-26.1(d) by providing a secondary natural gas feed between Rumson and Sea Bright, mitigating potential curtailments from future storm events, improving system reliability, and by providing monetary compensation for the proposed diversion area and disturbances to parkland acceptable to NJDEP; and
6. The Borough of Rumson acknowledges that in order to obtain the approval for the proposed parkland diversion involving the installation of a new natural gas main at Old Rumson Road Pocket Park, all substantive and procedural requirements of N.J.A.C. 7:36-26 must be met, including compensation requirements at N.J.A.C. 7:36-26.10.

Resolution seconded by Council President Atwell and carried on the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Absent: None.

**RESOLUTION 2020-0811-108 GOVERNING BODY CERTIFICATION OF THE 2019 ANNUAL BOROUGH AUDIT.**

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**2020-0811-108**

Councilman Rubin offered the following resolution and moved its adoption:

**GOVERNING BODY CERTIFICATION OF THE  
2019 ANNUAL BOROUGH AUDIT RESOLUTION**

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the year 2019 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled “Comments and Recommendations, and,

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled “Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and,

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and,

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Rumson, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Resolution seconded by Council President Atwell and carried on the following roll call vote:

In the affirmative:	Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.
In the negative:	None.
Absent:	None.

**RESOLUTION 2020-0811-109 AUTHORIZING THE RENEWAL OF A PORTION OF THE BOROUGH’S \$1,462,000 BOND ANTICIPATION NOTES, SERIES 2019A, DATED AUGUST 19, 2019, AND AUTHORIZING BOND ANTICIPATION NOTES IN THE SUM OF \$3,000,000 AUTHORIZED BY ONE BOND ORDINANCE HERETOFORE ADOPTED TO FINANCE VARIOUS ROAD AND DRAINAGE IMPROVEMENTS IN, BY AND FOR**

**THE BOROUGH OF RUMSON, COUNTY OF MONMOUTH, NEW JERSEY, AND PROVIDING FOR OTHER DETAILS OF SAID ISSUE.**

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**2020-0811-109**

**RESOLUTION AUTHORIZING THE RENEWAL OF A PORTION OF THE BOROUGH'S \$1,462,000 BOND ANTICIPATION NOTES, SERIES 2019A, DATED AUGUST 19, 2019, AND AUTHORIZING BOND ANTICIPATION NOTES IN THE SUM OF \$3,000,000 AUTHORIZED BY ONE BOND ORDINANCE HERETOFORE ADOPTED TO FINANCE VARIOUS ROAD AND DRAINAGE IMPROVEMENTS IN, BY AND FOR THE BOROUGH OF RUMSON, COUNTY OF MONMOUTH, NEW JERSEY, AND PROVIDING FOR OTHER DETAILS OF SAID ISSUE**

WHEREAS, the Borough Council of the Borough of Rumson, County of Monmouth, New Jersey (the "Borough") has heretofore adopted bond ordinance number 17-006 authorizing bonds to finance part of the costs of various road and drainage improvements in, by and for the Borough (the "Ordinance"); and

WHEREAS, the Borough has not previously funded all of the bonds and bond anticipation notes authorized to be issued pursuant to the Ordinance; and

WHEREAS, the Borough has heretofore issued its Bond Anticipation Notes, Series 2019A dated August 19, 2019 in the aggregate principal amount of 1,462,000 (the "Prior Notes"); and

WHEREAS, the Prior Notes mature on August 18, 2020 and it is desirable to renew the portion of the Prior Notes permitted by and pursuant to the Local Bond Law, constituting Chapter 2 of Title 40A of the Revised Statutes of New Jersey (the "Local Bond Law"); and

WHEREAS, it is advisable and in the best interests of the Borough, for the purpose of the orderly marketing of said notes and for other financial reasons, to combine the notes authorized under the Ordinance and the Prior Notes to be renewed into one issue in an aggregate principal amount of not more than \$3,398,388 (collectively, the "Notes") pursuant to the Local Bond Law; now, therefore,

BE IT RESOLVED by the BOROUGH COUNCIL OF THE BOROUGH OF RUMSON, in the County of Monmouth, New Jersey as follows:

SECTION 1. That the Notes shall be issued as one issue and at such time as shall be determined by the Chief Financial Officer of the Borough (the "Chief Financial Officer") and shall be in such denomination or denominations, shall bear such number or numbers, such date or dates of issue, redemption and maturity, such redemption price or prices, as may be determined in the manner and in accordance with the applicable provisions of the Local Bond Law. The Notes shall be entitled "Bond Anticipation Notes, Series 2020A" or any other designation determined by the Chief Financial Officer.

SECTION 2. That the Notes shall be an interest-free internal note of the Borough.

SECTION 3. That the Notes shall be signed by the manual or facsimile signatures of the Mayor of the Borough and the Chief Financial Officer and the corporate seal of the Borough shall be affixed thereto, attested by the manual signature of the Clerk of the Borough, and shall be in substantially the form as attached hereto as Exhibit A and made a part hereof.

SECTION 4. That the Chief Financial Officer be and she hereby is authorized and directed to determine all matters in connection with the Notes not determined by this or a subsequent resolution and her signature upon the Notes shall be conclusive as to such determinations.

SECTION 5. That the Notes issued pursuant to this resolution shall be a general obligation of the Borough, and the Borough's full faith and credit are hereby pledged to the punctual payment of the principal of and interest on said obligations and, unless otherwise paid or payment provided

for, an amount sufficient for such payment shall be inserted in the budget and a tax sufficient to provide for the payment thereof shall be levied and collected.

SECTION 6. That the Mayor of the Borough, the Chief Financial Officer, the Borough Administrator and the Clerk of the Borough are hereby authorized to execute all documents necessary for the delivery of the Notes.

SECTION 7. That the Chief Financial Officer be and she hereby is directed to pay the portion of the Prior Notes required to be paid by the Local Bond Law in the amount of \$1,063,612 from the applicable funds of the Borough.

SECTION 8. That this resolution shall take effect immediately.

The foregoing resolution was adopted by the following vote:

AYES: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

NOES: None.

ABSENT: None.

ABSTAIN: None.



Exhibit A

No. 2020A-\_\_

UNITED STATES OF AMERICA

STATE OF NEW JERSEY

BOROUGH OF RUMSON  
in the County of Monmouth, New Jersey  
BOND ANTICIPATION NOTE, SERIES 2020A

THE BOROUGH OF RUMSON, in the County of Monmouth, a municipal corporation of the State of New Jersey, for value received promises to pay itself the sum of Three Million Three Hundred Ninety-Eight Thousand Three Hundred Eighty-Eight Dollars (\$3,398,388), interest-free, on \_\_\_\_\_, 2021.

This Note is issued pursuant to the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the Revised Statutes of New Jersey, bond ordinances of the Borough Council of the Borough in all respects duly adopted and published as required by law and a resolution adopted by the Borough Council of the Borough. This Note is a Bond Anticipation Note, Series 2020A and is issued in anticipation of the issuance of bonds of the Borough. This Note is issued for a period not exceeding one year, and may be renewed from time to time for additional periods, not exceeding one year.

The full faith and credit of the Borough are hereby irrevocably pledged to the punctual payment of the principal and interest, if any, on this Note according to its terms.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of New Jersey to exist, to have happened or to have been performed precedent to or upon the issuance of this Note, exist, have happened and have been performed and that the amount and terms of this Note do not exceed any limitation imposed thereon by the Constitution or statutes of the State of New Jersey.

IN WITNESS WHEREOF, the BOROUGH OF RUMSON, acting through its Borough Council, has caused this Note to be signed by the manual or facsimile signatures of its Mayor and its Chief Financial Officer, its corporate seal to be hereunto affixed, this Note and the seal to be attested by the manual signature of the Borough Clerk of the Borough Council and this Note to be dated the \_\_\_\_ day of August, 2020.

ATTEST:  
(SEAL)

BOROUGH OF RUMSON

\_\_\_\_\_  
CLERK OF THE BOROUGH COUNCIL

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CHIEF FINANCIAL OFFICER

**RESOLUTION 2020-0811-110 ADOPTING NEW DRUG AND ALCOHOL TESTING POLICIES FOR CDL AND NON-CDL DRIVERS.**

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**2020-0811-110**

Councilman Rubin offered the following resolution and moved its adoption:

**RESOLUTION ADOPTING NEW TESTING POLICIES FOR CONTROLLED SUBSTANCES AND ALCOHOL USE FOR CDL DRIVERS AND NON-CDL DRIVERS**

WHEREAS, the Borough Council of the Borough of Rumson adopted the latest CDL and Non-CDL Controlled Substances and Alcohol Use Testing Policies on January 1, 2018 in accordance with employment laws and regulations; and

WHEREAS, the Municipal Excess Liability Joint Insurance Fund (MEL JIF) requires all JIF members to review and update their Controlled Substances and Alcohol Use for CDL and Non-CDL Drivers Policies every two years; and

WHEREAS, the Safety Committee of the Borough of Rumson has reviewed the policies, taking into account the recommendation of the MEL JIF, and it has been deemed necessary to update the CDL and Non-CDL Controlled Substances and Alcohol Use Testing policies at this time; and

WHEREAS, the changes made are on file with the Municipal Clerk/Administrator;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council that the newly updated CDL and Non-CDL Controlled Substances and Alcohol Use Testing Policies are hereby adopted; and

BE IT FURTHER RESOLVED that the updated CDL and Non-CDL Controlled Substances and Alcohol Use Testing policies shall apply to all Borough officials, appointees, employees, volunteers and independent contractors. In the event there is a conflict between these rules and any collective bargaining agreement, personnel services contract or federal or State law, the terms and conditions of that contract or law shall prevail. In all other cases, these policies and procedures shall prevail; and

BE IT FURTHER RESOLVED that these policies are intended to provide guidelines covering public service by Borough employees and are not a contract. The provisions of these policies may be amended and supplemented from time to time without notice and at the sole discretion of the Borough Council; and

BE IT FURTHER RESOLVED that the Municipal Clerk/Administrator and all managerial/ supervisory personnel are responsible for these practices. The Deputy Municipal Clerk and the Borough Attorney shall assist the Municipal Clerk/Administrator in the implementation of the policies and in these manuals.

Resolution seconded by Council President Atwell and carried on the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Absent: None.

**ANNOUNCEMENTS BY THE MAYOR:**

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Mayor Hemphill made the following announcement:

Borough Hall will be closed on Monday, September 7th in observance of the Labor Day holiday. There will be no garbage collection in the Borough on Labor Day. All residents who regularly have Monday garbage collection will need to wait until Thursday, September 10th, for their next pick-up.

Our next Regular Council meeting will be held on Tuesday, September 15th at 4:30 p.m.

Have an enjoyable and safe Labor Day weekend.

Thank you.

**FINANCIAL OFFICER’S REPORT:**

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The Financial Officer’s Report disclosed the following as of July 31, 2020:

<b>BOROUGH OF RUMSON</b>				
<b>CHIEF FINANCIAL OFFICER REPORT TO THE MAYOR AND COUNCIL</b>				
<b>Analysis of Cash for the Month Ending: July 31, 2020</b>				
<b>FUNDS</b>	<b>Beginning Balance</b>	<b>Cash Receipts</b>	<b>Disbursements</b>	<b>Ending Balance</b>
1. CURRENT FUND				
Current Fund Checking	15,008,174.81	8,691,781.70	(1,475,847.49)	22,224,109.02
Change Funds	300.00			300.00
Investments Rumson BAN	1,462,000.00			1,462,000.00
Total Current Fund	16,470,474.81	8,691,781.70	(1,475,847.49)	23,686,409.02
2. CAPITAL FUND				-
Capital Fund Checking	2,028,889.05	0.00	(479,376.89)	1,549,512.16
Total Capital Fund	2,028,889.05	0.00	(479,376.89)	1,549,512.16
3. PAYROLL & PAYROLL AGENCY				
Payroll	2,981.86	330,769.06	(330,769.06)	2,981.86
Payroll Agency	10,974.18	192,743.30	(192,743.30)	10,974.18
Total Payroll & Payroll Agency	13,956.04	523,512.36	(523,512.36)	13,956.04
4. TRUST FUNDS				
Trust Fund Checking	555,103.19	2,200.00	(6,504.75)	550,798.44
Unemployment Trust	76,283.16	1,980.10	0.00	78,263.26
Recreation Trust	363,947.66	13,388.00	(11,315.10)	366,020.56
C.O.A.H. Trust	2,432,761.02	17,638.29	0.00	2,450,399.31
Law Enforcement Trust Fund	452.40	0.31	0.00	452.71
LEAD (formerly DARE)	8,237.09	5.58	0.00	8,242.67
Cafeteria Plan	4,183.17	0.00	(462.73)	3,720.44
Animal Control Trust Fund	35,593.95	976.00	(335.60)	36,234.35
Total Trust Funds	3,476,561.64	36,188.28	(18,618.18)	3,494,131.74
TOTAL ALL FUNDS	21,989,881.54	9,251,482.34	(2,497,354.92)	28,744,008.96

Respectfully submitted by:

*Helen L. Graves*

Helen L. Graves, Chief Financial Officer

On motion by Councilman Casazza, seconded by Council President Atwell the Financial Officer’s Report was ordered received and carried on the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Absent: None.

**CONSIDERATION OF BILLS AND CLAIMS (RESOLUTION):**

Councilman Casazza offered the following Resolution and moved its adoption:

Vendor	Amount
NJ DEPT HEALTH/SR SERVICES	\$ 63.60
MONMOUTH COUNTY SPCA	\$ 225.00
NJ DEPT HEALTH/SR SERVICES	\$ 44.40
<i>ANIMAL CONTROL FUND</i>	<i>\$ 333.00</i>
APPALACHIA HYDROGEOLOGIC &	\$ 8,569.33
ASBURY PARK PRESS	\$ 85.40
KYLE MCMANUS ASSOCIATES LLC	\$ 3,159.50
<i>COAH TRUST FUND</i>	<i>\$ 11,814.23</i>
E.M. GRANT	\$ 111.95
JCP&L	\$ 10,939.29
NEW JERSEY AMERICAN WATER	\$ 7,465.98
VERIZON	\$ 53.09
VERIZON	\$ 369.53
VERIZON WIRELESS	\$ 473.11
VERIZON BUSINESS FIOS	\$ 144.99
WAGEWORKS	\$ 100.00
SUBURBAN DISPOSAL INC.,	\$ 40,916.66
SUBURBAN DISPOSAL INC.,	\$ 27,261.89
WILLIAM & MARY KENNEY	\$ 4,800.91
ERIC & RANDIE RICHMOND	\$ 2,508.16
ACME LOCKSMITH SERVICE	\$ 72.90
ALL AMERICAN TURF	\$ 1,206.44
AMERICANWEAR INDUST UNIFORMS	\$ 1,241.86
ANCHOR RUBBER STAMP	\$ 34.50
ROBERT ANDERSON	\$ 200.00
ATLANTIC COAST FIBERS, LLC	\$ 7,651.02
BARGER & GAINES	\$ 2,000.00
BAYSHORE FIRE & SAFETY LLC	\$ 42.00
BAYSHORE FIRE & SAFETY LLC	\$ 579.00
BOB'S UNIFORM SHOP	\$ 1,202.59
BOROUGH OF FAIR HAVEN	\$ 18,910.00
ROBERT BOYER	\$ 63.88
SHAUN & JENNIFER BRODERICK	\$ 7,149.70
BUTCH'S AUTO. CAR WASH, INC.	\$ 92.25
CAMPBELL FOUNDRY CO	\$ 2,613.44
COMCAST	\$ 2,160.04

CONSTANT CONTACT,INC	\$	588.00
MONMOUTH COUNTY TREASURER	\$	2,420,423.70
MONMOUTH COUNTY TREASURER	\$	178,936.57
MONMOUTH COUNTY TREASURER	\$	285,471.66
DETCO	\$	64.40
DETCO	\$	430.00
DETCO	\$	680.00
DIRECT ENERGY BUSINESS	\$	11.41
DYNAMIC TESTING SERVICE	\$	170.00
FAIR HAVEN HARDWARE INC	\$	24.09
JOSEPH FAZZIO WALL, LLC	\$	43.36
FEDEX TECHCONNECT REVENUE SERV	\$	61.43
GLENCO SUPPLY INC.	\$	111.00
GLENCO SUPPLY INC.	\$	45.00
WW GRAINGER INC	\$	97.02
JONATHAN GREEN & SONS,INC	\$	925.00
HOLMAN FRENIA ALLISON, PC	\$	500.00
HOLMAN FRENIA ALLISON, PC	\$	6,955.00
HOOVER TRUCK CENTERS INC	\$	13.59
THE INSTITUTE FOR FORENSIC	\$	450.00
JASPAN HARDWARE	\$	47.33
KALDOR EMERGENCY LIGHTS LLC	\$	317.10
KYLE MCMANUS ASSOCIATES LLC	\$	2,535.92
LANIGAN ASSOCIATES, INC	\$	99.90
LAWYERS DIARY AND MANUAL	\$	117.25
LAWES	\$	192.38
LAWES	\$	44.31
LAWES	\$	-0.37
LAWES	\$	659.54
LAWES	\$	20.36
LORCO PETROLEUM SERVICES	\$	125.00
MICHELE A MACPHERSON	\$	295.00
MAZZA RECYCLING SERVICES, LTD	\$	56.70
MCKESSON MEDICAL-SURGICAL	\$	3,233.90
EDWARD F MCNAMEE	\$	8,732.47
MID-ATLANTIC TRUCK CENTRE INC	\$	1,924.17
MOBILITY ELEVATOR & LIFT CO. TREASURER, COUNTY OF MONMOUTH	\$	1,145.00
MONMOUTH COUNTY TREASURER	\$	386.91
MONMOUTH COUNTY TREASURER	\$	1,200.00
MONMOUTH HOSE & HYDRAULICS	\$	633.46
MR JOHN INC	\$	584.35
NAJARIAN ASSOCIATES	\$	1,692.80
NAYLOR'S AUTO PARTS	\$	723.34
NEPTUNE DOOR COMPANY	\$	179.00
NEW JERSEY AMERICAN WATER	\$	9,568.00
NEW PIG CORPORATION	\$	320.13
NEXVORTEX, INC	\$	499.21
NJ NATURAL GAS CO.	\$	504.43
STATE OF NJ PENSIONS/ACTIVE	\$	84,608.61
STATE OF NJ PENSIONS/RETIREE	\$	31,907.59
OCEANIC HOOK AND LADDER	\$	8,963.00

OCEANIC FREE PUBLIC LIBRARY	\$	20.00
OCEANIC FREE PUBLIC LIBRARY	\$	75,000.00
PEP BOYS	\$	571.80
POWERHOUSE SIGNWORKS	\$	1,320.00
POWERHOUSE SIGNWORKS	\$	36.00
PROPERTY TRANSFER SERVICES	\$	1,616.12
JOSEPH & EILEEN PUCCI	\$	9,500.00
REALTY DATA SYSTEMS LLC	\$	3,740.00
REPUBLIC SERVICES of NJ, LLC	\$	2,203.45
RICOH USA, INC.	\$	508.65
THOMAS S ROGERS	\$	75.12
ROY PRESS PRINTERS	\$	40.00
ROY PRESS PRINTERS	\$	392.50
RUDCO PRODUCTS,INC	\$	799.00
RUMSON E M S	\$	8,963.00
RUMSON FIRE COMPANY	\$	8,963.00
SEABOARD WELDING SUPPLY, INC	\$	52.00
TERRENCE & MARY SHERIDAN	\$	807.41
SIP'S PAINT & HARDWARE	\$	855.02
SIP'S PAINT & HARDWARE	\$	1,099.99
STAPLES,INC	\$	96.98
STAVOLA ASPHALT CO. INC.	\$	138.65
STAVOLA ASPHALT CO. INC.	\$	264.21
STAVOLA ASPHALT CO. INC.	\$	238.05
MICHAEL B STEIB, PA	\$	547.30
SURENIAN,EDWARDS & NOLAN LLC	\$	7,025.50
TARGETED TECHNOLOGIES LLC	\$	2,574.76
TARGETED TECHNOLOGIES LLC	\$	414.00
TARGETED TECHNOLOGIES LLC	\$	318.00
TAYLOR FENCE CO, INC	\$	557.50
TAYLOR FENCE CO, INC	\$	936.65
TIMMERMAN EQUIPMENT COMPANY	\$	612.08
TIMMERMAN EQUIPMENT COMPANY	\$	375.48
THE TWO RIVER TIMES	\$	233.74
THE TWO RIVER TIMES	\$	52.39
TWO RIVERS WATER	\$	446,457.25
USA BLUEBOOK	\$	58.53
USA BLUEBOOK	\$	25.80
USA BLUEBOOK	\$	394.39
VERIZON	\$	60.68
VERIZON WIRELESS	\$	98.67
VERMEER NORTH ATLANTIC	\$	550.75
PHILIP VILLAPIANO	\$	3,655.54
WARSHAUER ELECTRIC SUPPLY	\$	7,700.00
WATCHUNG SPRING WATER CO.	\$	80.37
WB MASON COMPANY,INC	\$	731.85
WB MASON COMPANY,INC	\$	44.66
ZEP SALES & SERVICE	\$	862.80
ZEP SALES & SERVICE	\$	549.99
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<i>CURRENT FUND</i>	\$	<i>3,789,902.83</i>
ERIE LANDMARK COMPANY	\$	203.90
SICILIANO LANDSCAPE CO LLC	\$	500.00

<i>RUMSON ENDOWMENT FUND INC</i>	\$	703.90
CRAZEE JOHN'S INC	\$	342.00
ROBERT ESPOSITO	\$	163.32
RFH REGIONAL HIGH SCHOOL	\$	10,000.00
MAGDY HANNOUT	\$	182.60
MARTIN KENNY	\$	480.00
MARIA LAGRATTA	\$	100.00
LEAGUE APPS	\$	118.32
NATIONAL CENTER FOR SAFETY	\$	61.50
<i>RECREATION TRUST</i>	\$	11,447.74
SEAN MORAN	\$	2,000.00
MICHAEL B STEIB, PA	\$	1,469.00
<i>TRUST</i>	\$	3,469.00
<i>Animal Control Fund</i>	\$	333.00
<i>COAH Trust Fund</i>	\$	11,814.23
<i>Current Fund</i>	\$	3,789,902.83
<i>Rumson Endowment Fund, Inc.</i>	\$	703.90
<i>Recreation Trust</i>	\$	11,447.74
<i>Trust</i>	\$	3,469.00
<b><i>Total of All Funds</i></b>	<b>\$</b>	<b>3,817,670.70</b>

Resolution seconded by Council President Atwell and carried on the following roll call vote:

In the affirmative: Atwell, Casazza, Conklin, Kingsbery, Rubin and Swikart.

In the negative: None.

Absent: None.

#### **COMMENTS FROM THE COUNCIL:**

The Mayor afforded the members of the Council an opportunity to be heard at this time.

Council President Atwell expressed her thanks to the Borough's Police Department and Department of Public Works for the outstanding job they did after the past storm and for the ongoing cleanup efforts they are currently working on as they remove all of the brush from the streets.

She also noted that she attended the Shade Tree Commission earlier in the day and the Commission members would like to offer their assistance in planting a remembrance tree in memory of former Borough Administrator Gary Sammon.

Mayor Hemphill agreed that this would be a wonderful idea and thanked the Council President for sharing this information.

Councilman Casazza commended Tom Rogers and Helen Graves for their work on the 2019 annual Borough audit. As it is a long and lengthy process, Councilman Casazza understands it takes lot of work on all fronts and it doesn't just happen by itself. He gave compliments to Tom, Helen and their teams for making the audit run smoothly this year.

#### **COMMENTS FROM THE PUBLIC:**

The Mayor shared the following statement:

*As many of you are aware, there is currently ongoing litigation regarding the Borough's Affordable Housing Program. The Borough is also on track to appear before the Judge again for the Borough's compliance review. Under the circumstances, we are not at liberty to discuss the ongoing litigation and will not entertain any questions regarding the Fairness Hearing. If you have a general question concerning Affordable Housing, the Ordinances we are introducing today and the overall Affordable Housing Program in Rumson, Kendra Lelie, the Borough's Planner, is attending today's meeting and will answer your questions. Today, we introduce the Ordinance to start Rumson's Affordable Housing Committee. The Committee will consist of Council, Planning Board and Zoning Board Members as well as members of the public. I know some of you have expressed interest in helping with the Affordable Housing Committee and if you are interested in working with us, please email me and make me aware of your interest. The Committee will be appointed after the Borough has completed the Court process.*

The Mayor then invited the public to speak.

Municipal Clerk/Administrator Thomas Rogers read the instructions for anyone wishing to make public comments on the virtual call.

ToniAnn Buscarnera of 63 Lafayette Street asked how long it will take to have the Borough's playgrounds opened back up again.

Mayor Hemphill responded that the Borough is working very hard to find the best way to keep the playground equipment clean and safe for everyone and as soon as a plan has been established, the playgrounds will be re-opened. He also noted that the parks are always open.

Tom Harmon of 80 Navesink Avenue expressed his dissatisfaction with the Borough's decision to close recreation sports at this time as he believes it will force parents to visit recreation programming in other towns, which will defeat the Borough's intended purpose of trying to keep the risk of COVID-19 down among the youth and families in the local community.

Mayor Hemphill thanked Mr. Harmon for his comments.

Jon Blatt of 89 Rumson Road shared his appreciation to the Mayor and Council for moving forward with the Affordable Housing Committee. However, Mr. Blatt would like to express his concerns regarding appointed officials being a part of the Committee. He does not feel they should have voting rights, and he believes only the members of the public who have been appointed to the Committee should have voting rights due to the nature of the issues.

Mayor Hemphill stated that the experts are there to guide and are not voting members. The voting members of the Committee will consist of Council, Planning Board members and the public.

Councilman Conklin added that as a member of the Council, his perspective for the Committee would be willful and focused on the thorough examination of any and all ideas presented to the Committee, whether the idea comes from someone on the Committee or not. He feels that each idea presented, whether positive or negative, will be followed through with no inclination to stifle or disregard.

Mr. Blatt thanked the Mayor and Council and was optimistic about moving forward in a transparent and effective manner. He appreciated these first steps being taken.

Mark Ginsberg of 63 Ridge Road expressed his unhappiness at the cancellation of the Borough's recreation travel sports programming.

Robert Esposito of 60 Navesink Avenue is a girl's travel soccer coach and is unhappy that he now has to take his team to another town to practice and play games in an effort to keep the



team together. He is not happy with the Borough's decision to cancel recreation sports at this time.

Mayor Hemphill thanked him for his comments and stated that as things with the pandemic get better, fields will open up. However, at this time, the Borough will be sticking with their decision.

MaryAnn Baret of 7 Park Avenue asked Councilman Conklin about his Finance Committee report wherein he mentioned the Borough's borrowing capacity.

Councilman Conklin explained that the law allows a town to borrow up to 3.5% of their worth and the Borough's worth is currently \$140,000,000. At this time, the Borough has \$11,000,000 in debt.

Mr. Rogers added that Ms. Baret should reach out to the Borough's CFO, Helen Graves as she has much of the specific information she is looking for along with the restrictions and guidelines for borrowing. He also stated that the overall Borough debt does not include operating expenses as those must be budgeted on an annual basis. Lastly, he mentioned the trigger Councilman Conklin referred to being in place in order to limit towns from over borrowing and putting the town and its residents at risk. The Borough's careful and conservative spending by utilizing grants, etc. has kept things in good shape.

Ms. Baret thanked everyone and stated that she will follow up by making an appointment with Ms. Graves.

Michael Polloway of 6 Broadmoor Drive is a rec and travel coach and is concerned that the Borough's decision to close recreation sports programming contradicts the Governor's Executive Order wherein he believes certain non-contact sports should still be allowed. He is also concerned that winter sports were already cancelled.

Mayor Hemphill thanked Mr. Polloway for his concerns and said everything will be reviewed as the school year starts. Things will be reviewed and changed but for now, the decision to cancel the sports will stand.

Tom Rogers added that at this time, the COVID numbers in the State are climbing again that impacts whether or not there will be in person education or all remote. If things change, there could certainly be a quick pivot that would allow for the playing of winter basketball.

Tom Harmon of 80 Navesink asked the Mayor and Council to acknowledge that their ruling on recreation sports has caused a couple of hundred Borough children to move their sports activities to other towns, which he feels is having the opposite effect of the Borough's intent.

Mr. Rogers thanked Mr. Harmon for his comment.

Jon Blatt of 89 Rumson Road asked for clarification on whether or not the Affordable Housing Committee will be replacing the Affordable Housing Liaison.

Mayor Hemphill asked Borough Planner, Kendra Lelie, to address the question. Ms. Lelie explained the two Ordinances and gave clarification on the Municipal Housing Liaison position. She stated that the Municipal Housing Liaison is generally a staff member at a municipality whose responsibility is to answer questions regarding affordable housing. An Administrative Agent is hired, usually as a consultant, to assist with questions or concerns that require further working knowledge of the Ordinances and guidelines. This Agent usually handles the more involved issues regarding affirmative marketing, income qualifications, housing for rent or sale, etc.

Mr. Rogers added additional clarification on the Ordinances introduced at this meeting and explained that not every municipality has an Affordable Housing Committee so the Borough is following the guidelines provided by a State template.

Mr. Blatt thanked Ms. Lelie.

Carolyn Desena 3 Azalea Lane asked if the reasons for closing down recreation sports could be explained.

Mayor Hemphill asked Mr. Rogers to explain the various reasons regarding the Borough's decision.

Mr. Rogers explained that the decision to close the recreation programming at this time was based on many factors which included reviews on how collegiate sports programs and local/County agencies were working to try and keep the kids in the schools. He stated that things can be adjusted quickly as the seasons play out. However, the Borough's goal is to assist the schools in trying to remain open and not having to go completely virtual.

Ms. Desena asked if the Mayor and Council would entertain the idea of her gathering medical experts and parents to devise a plan in order to develop a safe plan for using cohorts and bringing back non-physical contact sports so she and other parents do not have to take their children to participate in sports in other towns. She is very concerned not only for the physical aspects of the program cancelations but also as to the mental and emotional sides of the issue.

The Mayor assured Ms. Desena that the Borough is continuing to look for ways to bring sports safely back to the town but this is the decision at this time. He would certainly be open to any and all ideas going forward.

Ms. Desena thanked the Mayor and Council.

#### **ADJOURNMENT:**

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Councilman Rubin made a motion to adjourn the meeting which was seconded by Council President Atwell. The meeting adjourned at \_\_\_\_\_ p.m. All in favor.

Respectfully submitted,

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Thomas S. Rogers, R.M.C.  
Municipal Clerk/Administrator